

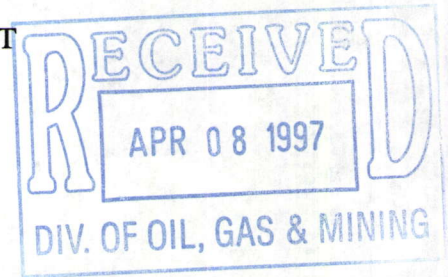
M/047/013



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Utah State Office  
P.O. Box 45155  
Salt Lake City, UT 84145-0155



IN REPLY REFER TO  
3591  
UTU-0126693  
(UT-921)

APR 01 1997

COWBOY No. 1

CERTIFIED MAIL--Return Receipt Requested

Ziegler Chemical & Mineral  
c/o Mr. Bud Covington  
P.O. Box 1845  
Vernal, Utah 84078

Re: Cowboy-Bandana Mine Plan for Gilsonite Lease U-0122693,  
T. 8 S., R. 24 E., Section 33, Gilsonite Haulage.

### NOTICE OF NONCOMPLIANCE

The Bureau of Land Management (BLM) is issuing this notice of noncompliance to Ziegler Chemical and Mineral for failure to comply with the Mine Plan approved on January 26, 1994, and subsequently approved as modified on June 21, 1994.

On March 20, 1997, BLM conducted its quarterly inspection of the mine site. During the inspection, it was observed that Ziegler has placed a 12-inch diameter pipe on the surface of the lease to facilitate mining gilsonite from the surface on fee property adjacent to the lease. Ziegler has placed the pipe along the strike of the vein and has placed an airlift system near the shaft to facilitate the mining of the gilsonite on the fee property. An old road has been utilized for the transportation of materials to the fee ground. Ziegler has applied to mine the Federal lease using this method and BLM has responded back with some concerns. This type of mining has yet to be approved on the Federal lease.

The mine plan at the present time does not describe this type of operation. On March 20, 1997, BLM issued a verbal order to update the mine plan and this provides the written documentation of the order.

#### Requirements to Correct the Noncompliance:

Ziegler Chemical Corporation must provide to BLM a detailed update to the mine plan, including a description and map of disturbed areas and locations of pipe and the airlift system. The map shall be by a licensed surveyor and shall accompany the detailed plan which is to be submitted to the Utah State Office of the BLM within **15 working days** from receipt of this notice.



### Appeal Rights

You have 60 calendar-days from the receipt of this notice to come into compliance. Following the compliance period, you then have 30 calendar-days to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulation at 43 CFR Part 4 and the enclosed (see enc. 3) Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 calendar-days following at the end of the compliance period. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) for a stay of the effectiveness of this decision during the time that you appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and the petition for a stay must also be submitted to the Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

### Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards;

- (1) The relative harm to the parties if a stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of the immediate and irreparable harm if the stay is not granted, and;
- (4) Whether the public interest favors granting the stay.

Sincerely,

THOMAS F. SLATER

Douglas M. Koza  
Deputy State Director, Natural Resources

bcc: Tony Gallegos, Utah Division of Oil, Gas and Mining  
John Blake, Utah State Institutional Trust Lands  
Mr. Norman Haslam, Ziegler Chemical & Mineral, Star Route, Vernal, Utah 84078  
VDM  
Files:UTU-0122693  
Solid Chron  
Mine Plan  
SPerkes

Sperkes:sp:jt:03/28/97  
PIPENON